

2. Plaintiff, pro se, apparently asserts claims for negligence, wrongful death, and survival against Dr. Straub, for alleging prescribing a medication that caused the death of Plaintiff's husband. Id.

3. Pursuant to FSHCAA, 42 U.S.C. § 233(g)-(n), the United States Department of Health and Human Services has deemed the Rural Health Corporation of Northeastern Pennsylvania (d/b/a Shickshinny Health Center) and its employee, Jurgen Straub, M.D. —covered employees of the United States for purposes of the Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 2671, et seq., as result of his work as a Public Health Service employee, including for the period relevant to the Complaint, January 1, 2016 to present. See Declaration of Meredith Torres and Deeming Letters (Ex. B).

4. The FSHCAA extends FTCA coverage to the grantees that have been deemed covered under Section 233(h) and certain of its officers, employees, and contractors. See 42 U.S.C. § 233. Here, Dr. Straub is covered. See Torres Decl. and Deeming Letters (Ex. B).

5. Upon certification “that the defendant [employee] was acting within the scope of his employment at the time of the incident out of which the suit arose,” the State Action “shall be removed without bond at any time before trial” to the Middle District of Pennsylvania. 42 U.S.C. § 233(c).

6. Joseph J. Terz, Chief, Civil Division, United States Attorney's Office, has certified that Dr. Straub was acting within the scope of his employment with the

United States at all times relevant to the incidents underlying Plaintiff's lawsuit. See Certification (Ex. C).¹

7. Moreover, upon removal, this action against the Federal Defendants shall be "deemed a tort action brought against the United States under the provisions of title 28[, i.e. the FTCA]." 42 U.S.C. § 233(c); see also Feaster v. BOP, 366 F. App'x 322, 323 (3d Cir. 2010) ("The only proper defendant in an FTCA suit is the United States itself."); Zierke v. United States, 3:CV-14-0350, 2016 WL 1189399, at *4 (M.D.Pa. Mar. 22, 2016) ("All actions brought pursuant to the FTCA must be brought against the United States of America and not in the name of the allegedly negligent agency, entity or employee. The only proper party in an FTCA action is the United States of America.") (citations omitted).

8. As result, the State Action is one which the United States may properly remove to federal court and automatically substitute itself as the proper defendant (in place of the Federal Defendants) pursuant to 42 U.S.C. § 233.

9. Notice of Removal of this action will be provided to the Chambers of Magistrate District Court, Wright Township, Luzerne County.

WHEREFORE, the United States of America respectfully gives notice that the above-captioned matter is removed to the United States District Court for the

¹ The Attorney General has delegated certification authority to the United States Attorneys. 28 C.F.R. § 15.3. In turn, the United States Attorney for the Middle District of Pennsylvania has delegated certification authority to the Chief of the Civil Division, United States Attorney's Office.

Middle District of Pennsylvania, and that the United States is substituted as the defendant in place of Dr. Jurgen Straub.

Respectfully submitted,

DAVID J. FREED
United States Attorney

s/Michael J. Butler
Michael J. Butler
Assistant United States Attorney
PA81799
228 Walnut Street
PO Box 11754
Harrisburg, PA 17108-1754
Tel: (717)221-4482
Fax: (717)221-4493
Michael.J.Butler@usdoj.gov

Date: August 16, 2019